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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,729	10/28/2003	Alfred Lamprecht	224966	9742
23460 7590 05/23/2008 LEYDIG VOIT & MAYER, LTD TWO PRUDENTIAL PLAZA, SUITE 4900 180 NORTH STETSON AVENUE CHICAGO, IL 60601-6731				
EXAMINER				
HAUGLAND, SCOTT J				
ART UNIT		PAPER NUMBER		
3654				
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05/23/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/695,729

**Applicant(s)**

LAMPBRECHT ET AL.

**Examiner**

Scott Haugland

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/55/02)  
Paper No(s)/Mail Date 10/28/03
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Reissue Applications***

The amendment to the claims filed 10/28/03 was not accompanied by a separate paper including an explanation of the support in the disclosure of the patent for the changes to the claims as required by 37 CFR 1.173(c).

The reissue oath/declaration filed with this application is defective because it fails to properly identify the associated specification (see the first page of the declaration).

The reissue oath/declaration filed with this application is defective because the error which is relied upon to support the reissue application is not an error upon which a reissue can be based. See 37 CFR 1.175(a)(1) and MPEP § 1414.

The error in the patent to be corrected is not specifically set forth in the declaration. The declaration must identify a single word, phrase, or expression in the specification or in an original claim, and how it renders the original patent wholly or partly inoperative or invalid. Any error in the claims must be identified by reference to the specific claim(s) and the specific claim language wherein lies the error.

Claims 1-39 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

Claims 18-39 are rejected under 35 U.S.C. 251 as being based upon new matter added to the patent for which reissue is sought. The added material which is not supported by the prior patent is as follows:

There is no disclosure in the patent that the walls of the inlet, storage, and payout regions each have (1) a thin wall thickness no greater than the thickness of the blank from which the body of the feed wheel is formed as recited in claim 18, lines 2-4, claim 21, lines 13-15, and claim 32, lines 5-6, (2) a substantially uniform wall thickness as recited in claims 19, 22, 33, and 38, and (3) a wall thickness that is less than  $1/32^{\text{nd}}$  a diameter of the storage region as recited in claim 20, claim 23, claim 29, lines 13-15, and claim 37, lines 5-6.

Claims 21-39 are rejected under 35 U.S.C. 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. See *Pannu v. Storz Instruments Inc.*, 258 F.3d 1366, 59 USPQ2d 1597 (Fed. Cir. 2001); *Hester Industries, Inc. v. Stein, Inc.*, 142 F.3d 1472, 46 USPQ2d 1641 (Fed. Cir. 1998); *In re Clement*, 131 F.3d 1464, 45 USPQ2d 1161 (Fed. Cir. 1997); *Ball Corp. v. United States*, 729 F.2d 1429, 1436, 221 USPQ 289, 295 (Fed. Cir. 1984). A broadening aspect is present in the reissue which was not present in the application for patent. The record of the application for the patent shows

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that the broadening aspect (in the reissue) relates to claim subject matter that applicant previously surrendered during the prosecution of the application. Accordingly, the narrow scope of the claims in the patent was not an error within the meaning of 35 U.S.C. 251, and the broader scope of claim subject matter surrendered in the application for the patent cannot be recaptured by the filing of the present reissue application.

The amendment of 11/21/02 in the application for patent changed the limitation "one-piece" in claim 20 to --single piece--. Claims 21-39 of this reissue application eliminate this change and attempt to recapture surrendered subject matter.

The amendment of 11/21/02 in the application for patent modified claim 20 so that it required the yarn inlet region and the yarn payout region to have a circular cross section at each lateral point instead of merely a circular cross section. Applicants, also, argued this change in the first full paragraph of page 6 of the paper filed 11/21/02. Claims 21-27, 29, 30, and 32-39 of this application do not include a form of this modification and attempt to recapture surrendered subject matter.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11, 15, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Fecker (U.S. Pat. No. 4,793,565).

Fecker discloses a yarn feeder for positive feeding of yarns comprising: a yarn feed wheel 4, a drive mechanism 5 for rotatably driving the yarn feed wheel. The yarn feed wheel 4 comprises a single piece that includes a laterally extending yarn inlet region 13, a laterally extending yarn storage region (formed by 16), and a laterally extending yarn payout region 14. The yarn inlet region 13 comprises a closed surface that has a circular cross section at each lateral point that is concentric to the pivot axis with a diameter which decreases along the pivot axis in a lateral direction toward the storage region (note that the 13 is tapered). The yarn payout region has a circular cross section at each lateral point that is concentric to the pivot axis with a diameter which increases along the pivot axis in a lateral direction away from the storage region. The storage region has spaced contact regions (on 16). The cross section of the storage region deviates from a circle that is concentric with the pivot axis. The yarn inlet region, yarn storage region, and yarn payout region merge with one another without shoulders or steps which can impede lateral movement of yarn from the inlet region to the storage region and from the storage region to the outlet region.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fecker (U.S. Pat. No. 4,793,565) in view of Lin (U.S. Pat. No. 5,802,881).

Fecker is described above.

Fecker does not disclose planar surface regions formed between adjacent bearing surfaces of the storage region of the feed wheel.

Lin teaches forming a yarn feed wheel with planar surface regions (on radially extending sides of support elements 4) between bearing surfaces 432 of a storage region of the yarn feed wheel.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Fecker with planar surface regions between bearing surfaces of the storage region of the feed wheel as taught by Lin to facilitate manufacture of an accurate storage region surface.

Claims 13, 14, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fecker (U.S. Pat. No. 4,793,565) in view of Chen (U.S. Pat. No. 5,839,685).

Fecker is described above.

Fecker does not disclose that the yarn feed wheel has a base body and coating comprising the claimed materials.

Chen teaches forming a yarn feed wheel 30 as a metal base body with a coating comprising a ceramic (oxide layer) 301 and PTFE 305 to prevent damage (e.g., scratching) of the surface of the feed wheel and reduce friction.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Fecker with a base body comprising a ceramic or a metal body coated with a ceramic or coated with a coating containing oxygen and a further component different from the metal body as taught by Chen to reduce wear and friction on the feed wheel.

Claims 18-25, 28, 29, 32-34, 37, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fecker (U.S. Pat. No. 4,793,565) in view of Buck et al (U.S. Pat. No. 4,574,597).

Fecker is described above.

Fecker does not disclose that the yarn feed wheel is formed by deep-drawing a metal blank.

Buck et al teaches forming a yarn feed wheel 5 by deep-drawing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the metal yarn feed wheel of Fecker by deep-drawing as taught by Buck et al to increase manufacturing efficiency. The wall thickness of the feed wheel can be made thicker than a blank from which the wheel is formed. The wall thickness would have been a matter of obvious engineering choice since it would have been within the level of



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skill of an ordinary artisan to select the wall thickness to provide sufficient rigidity and strength while minimizing material usage and cost.

With regard to claim 34, it would have been obvious to coat the metal body after shaping to prevent destruction of the coating during shaping.

Claims 26, 27, 30, 31, 35, 36, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fecker (U.S. Pat. No. 4,793,565) in view of Buck et al (U.S. Pat. No. 4,574,597) as applied to claims 25, 29, 33, and 38 above, and further in view of Chen (U.S. Pat. No. 5,839,685).

Fecker does not disclose that the yarn feed wheel is made of aluminum and does not disclose a coating having the claimed composition.

Chen teaches forming a yarn feed wheel of aluminum and teaches providing a yarn feed wheel with a coating comprising a ceramic (oxide layer) 301.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the yarn feed wheel of Fecker of aluminum to reduce weight and to provide the yarn feed wheel with a coating of ceramic as taught by Chen to reduce wear of the feed wheel.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Haugland whose telephone number is (571)272-6945. The examiner can normally be reached on Mon. - Fri., 10:00 am - 6:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SJH/

5/15/08

/Peter M. Cuomo/

Supervisory Patent Examiner, Art Unit 3654